

CRAVATH, SWAINE & MOORE

SEP 28 1978 - 9 43 AM

ONE CHASE MANHATTAN PLAZA

NEW YORK, N.Y. 10005

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INTERNATIONAL TELEX: 620976

TELETYPE: 710-581-0338

TELEX: 125547

RECORDATION NO. 9719 Filed 1425

SEP 28 1978 - 9 43 AM

INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 9719 Filed 1425

SEP 28 1978 - 9 43 AM

INTERSTATE COMMERCE COMMISSION

July 20, 1978

SEP 28 1978 - 9 43 AM INTERSTATE COMMERCE COMMISSION

Commission
Lease Financing Dated as of February 1, 1978
8-7/8% Conditional Sale Indebtedness Due April 20, 1989

[CS&M Ref: 3750-017]

Dear Sir:

Pursuant to Section 20c of the Interstate Commerce Act and the Commission's rules and regulations thereunder, as amended, I enclose herewith on behalf of Louisville and Nashville Railroad Company, for filing and recordation counterparts of the following:

(1) Reconstruction and Conditional Sale Agreement (No. 2) dated as of February 1, 1978, among Mercantile-Safe Deposit and Trust Company, L&N Investment Corporation and The Connecticut Bank and Trust Company;

(2) Transfer Agreement (No. 2) dated as of February 1, 1978, between Mercantile-Safe Deposit and Trust Company and The Connecticut Bank and Trust Company;

(3)(a) Lease of Railroad Equipment (No. 2) dated as of February 1, 1978, between Louisville and Nashville Railroad Company and The Connecticut Bank and Trust Company;

(3)(b) Assignment of Lease and Agreement (No. 2) dated as of February 1, 1978, between Mercantile-Safe Deposit and Trust Company, The Connecticut Bank and

MAURICE T. MOORE
BRUCE BROMLEY
ALBERT R. CONNELLY
FRANK H. DETWEILER
GEORGE O. TYLER
WILLIAM B. MARSHALL
RALPH L. McAFEE
ROYALL VICTOR
ALLEN H. MERRILL
HENRY W. de KOSMIAN
ALLEN F. MAULSBY
STEWART R. BROSS, JR.
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JOHN F. HUNT
GEORGE J. GILLESPIE, III
RICHARD S. SIMMONS
WAYNE E. CHAPMAN
THOMAS D. BARR
MELVIN L. BEDRICK

GEORGE T. LOWY
ROBERT ROSENMAN
JAMES H. DUFFY
ALAN J. HRUSKA
JOHN E. YOUNG
JAMES M. EDWARDS
DAVID G. ORMSBY
DAVID L. SCHWARTZ
RICHARD J. HIEGEL
FREDERICK A. O. SCHWARZ, JR.
CHRISTINE BESHAR
ROBERT S. RIFKIND
DAVID O. BROWNWOOD
PAUL M. DODYK
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ROBERT D. JOFFE
ROBERT F. MULLIN
ALLEN FINKELSON
RONALD S. ROLFE
JOSEPH R. SAHID
PAUL C. SAUNDERS
MARTIN L. SENZEL

INTERSTATE COMMERCE COMMISSION

8-271AC51

Date SEP 28 1978

Fee \$ 700

ICC Washington, D.C.

RECORDATION NO. 9719 Filed 1425

ROSWELL L. GILPATRIC
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CABLE ADDRESSES
CRAVATH, N.Y.
CRAVATH, PARIS
CRAVATH, LONDON E.C.2

Handwritten signature: C. H. Swaine

Vertical stamp: RECEIVED SEP 28 1978

Trust Company and Louisville and Nashville Railroad Company; and

(4) Hulk Purchase Agreement (No. 2) dated as of February 1, 1978, between The Connecticut Bank and Trust Company and Louisville and Nashville Railroad Company.

The addresses of the parties to the aforementioned agreements are:

Trustee-Owner-Trustee-Lessor-Vendee-Buyer:

The Connecticut Bank and Trust Company,
One Constitution Plaza,
Hartford, Connecticut 06115.

Builder:

L&N Investment Corporation,
908 West Broadway,
Louisville, Kentucky 40201.

Lessee-Railroad-Seller:

Louisville and Nashville Railroad Company,
908 West Broadway,
Louisville, Kentucky 40201.

Agent-Vendor:

Mercantile-Safe Deposit and Trust Company,
Two Hopkins Plaza,
P. O. Box 2258,
Baltimore, Maryland 21203.

The Hulks covered by the Transfer Agreement (No. 2) and the Hulk Purchase Agreement (No. 2) are listed in Exhibit A attached hereto. The reconstructed railroad equipment covered by the Reconstruction and Conditional Sale Agreement (No. 2) and the Lease (No. 2) are listed in Exhibit B attached hereto. The reconstructed railroad equipment bear the legend "Subject to a Security Agreement filed under the Interstate Commerce Act, Section 20c".

Enclosed is our check for \$200 for the required recordation fee. Please accept for recordation one counter-

part of each of the enclosed agreements, stamp the remaining counterparts with your recordation number and return them to the delivering messenger along with your fee receipt, addressed to the undersigned.

Very truly yours,

Laurance V. Goodrich

Laurance V. Goodrich
As Agent for Louisville and
Nashville Railroad Company

Robert L. Oswald, Esq., Secretary,
Interstate Commerce Commission,
Washington, D. C. 20423

Encls.

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BY HAND

Car #s same as those in 9719
See - E all not changed

[CS&M Ref: 3750-017]

RECORDATION NO. 9719-^B
SEP 28 1978 10 48 AM
INTERSTATE COMMERCE COMMISSION

LEASE OF RAILROAD EQUIPMENT
(No. 2)

Dated as of February 1, 1978

Between

LOUISVILLE AND NASHVILLE RAILROAD COMPANY,
as Lessee,

and

THE CONNECTICUT BANK AND TRUST COMPANY,
not in its individual capacity but solely as Owner Trustee,
as Lessor

LEASE OF RAILROAD EQUIPMENT

TABLE OF CONTENTS*

	<u>Page</u>
PARTIES	L-1
PREAMBLES	L-1
SECTION 1.	
Delivery and Acceptance of Units	L-2
SECTION 2.	
Rental	L-2
SECTION 3.	
Term of Lease	L-5
SECTION 4.	
Identification Marks	L-5
SECTION 5.	
Taxes	L-6
SECTION 6.	
Maintenance; Payment for Casualty Occurrences; Insurance	L-8
SECTION 7.	
Annual Reports	L-11

* This Table of Contents has been included in this document for convenience only and does not form a part of, or affect any construction or interpretation of this document.

Page

SECTION 8.

Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification	L-11
--	------

SECTION 9.

Default	L-14
---------------	------

SECTION 10.

Return of Units upon Default	L-17
------------------------------------	------

SECTION 11.

Assignment; Possession and Use	L-19
--------------------------------------	------

SECTION 12.

Renewal Option.	L-20
----------------------	------

SECTION 13.

Return of Units upon Expiration of Term	L-22
---	------

SECTION 14.

Severability	L-23
--------------------	------

SECTION 15.

Recording; Expenses	L-23
---------------------------	------

SECTION 16.

Interest on Overdue Rentals	L-24
-----------------------------------	------

SECTION 17.

Notices	L-24
---------------	------

SECTION 18.

Effect and Modification of Lease	L-25
--	------

	<u>Page</u>
SECTION 19.	
Execution	L-25
SECTION 20.	
Law Governing	L-25
SECTION 21.	
Immunities; No Recourse	L-25
TESTIMONIUM	L-26
SIGNATURES	L-26
SCHEDULE A--Specifications of the Equipment	L-28
SCHEDULE B--Casualty Value Percentages Schedule	L-31

LEASE OF RAILROAD EQUIPMENT No. 2, dated as of February 1, 1978, between LOUISVILLE AND NASHVILLE RAILROAD COMPANY (hereinafter called the Lessee) and THE CONNECTICUT BANK AND TRUST COMPANY, a Connecticut banking corporation, not in its individual capacity but solely as Trustee (hereinafter called the Lessor or the Vendee) under a Trust Agreement No. 2 dated as of the date hereof (hereinafter called the Trust Agreement), with American Security Bank, N.A. (hereinafter called a Beneficiary).

Mercantile-Safe Deposit and Trust Company, not in its individual capacity but solely as Agent under a Participation Agreement No. 2 dated as of the date hereof (hereinafter called the Participation Agreement) with the Lessor, the Lessee, the Beneficiary and the parties named in Schedule A thereto (said Agent, as so acting, being hereinafter, together with its successors and assigns, called the Vendor), L & N Investment Corporation (hereinafter called the Builder) and the Vendee are entering into a Reconstruction and Conditional Sale Agreement No. 2 dated as of the date hereof (hereinafter called the Security Document), wherein the Vendor has agreed to sell to the Vendee its interest in the railroad equipment described in Schedule A hereto after it has been reconstructed by the Builder.

The Lessee desires to lease all the units of said equipment, or such lesser number as are delivered, accepted and settled for under the Security Document on or prior to the Cut-Off Date (as defined in Article 3 of the Security Document) (such units being hereinafter called the Units), at the rentals and for the terms and upon the conditions hereinafter provided.

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions, but subject to all the rights and remedies of the Vendor under the Security Document:

Section 1. Delivery and Acceptance of Units. The Lessor will cause each Unit to be tendered to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor under the Security Document. Upon such tender, the Lessee will cause an authorized representative of the Lessee to inspect the same, and if such Unit is found to be in good order, to accept delivery of such Unit and execute and deliver to the Lessor and the Builder a certificate of acceptance and delivery (hereinafter called the Certificate of Delivery), whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

Section 2. Rental. The Lessee agrees to pay to the Lessor as rental for each Unit subject to this Lease three interim and 20 consecutive semiannual payments. The interim payments are payable on October 20, 1978, April 20, 1979, and the Cut-Off Date (as defined in the Participation Agreement) or as promptly thereafter as practicable. The 20 semiannual payments are payable on April 20 and October 20 in each year, commencing October 20, 1979, to and including April 20, 1989. The interim payment on October 20, 1978, shall be in an amount equal to the sum of (i) the product of the Purchase Price (as such term is defined in the Security Document) for each Unit subject to the Lease multiplied by .0246528% for each day elapsed from and including the date such Unit is settled for under the Security Document to but not including October 20, 1978, plus (ii) an amount equal to the amount required by the Lessor to make the payment on October 20, 1978, provided for in clause (b) of the last paragraph of Paragraph 9 of the Participation Agreement. The interim payment on April 20, 1979, shall be in an amount equal to the sum of (i) the product of the Purchase Price for each Unit subject to the Lease multiplied by .0246528% for each day elapsed from and including the later of October 20, 1978, or the date such Unit is settled for under the Security Document to but not including April 20, 1979, plus (ii) an amount equal to the amount required by the Lessor to make the payment on April 20, 1979, provided for in clause (b) of the last paragraph of Paragraph 9 of the Participation Agreement. The interim payment payable on the Cut-Off Date (or as promptly thereafter as practicable) shall be in an amount equal to the amount payable by the Owner Trustee to the Agent pursuant to clause (a) of the last paragraph of Paragraph 9 of the Participation Agreement. The 20 semiannual rental payments with respect to each Unit then subject to this Lease shall each be in an amount equal

to 5.386418% of the Purchase Price of each such Unit for each Unit delivered and accepted under the Security Document on or prior to December 31, 1978; and the applicable percentage of the Purchase Price of each such Unit shall be 5.868304% for each Unit delivered and accepted from January 1, 1979, through April 20, 1979. The foregoing rental rates have been calculated on the assumption that 70.44718% of the Purchase Price of the Units will be provided by the Vendor out of Investors' Funds (as such term is defined in Paragraph 6 of the Participation Agreement). If for any reason the Investors' Funds are not available and the Lessor pays more than 29.55282% of the Purchase Price of any Unit pursuant to the third paragraph of Article 3 of the Security Document on a Closing Date (as such term is defined in the Security Document) or if the Reconstruction Cost (as defined in the Security Document) of all units settled for under the Security Document is other than 73.57446% of the Purchase Price of such Units, the Lessor and the Lessee agree that the rentals payable hereunder and the Casualty Value percentages set forth in Schedule B hereto will be appropriately adjusted in order that the Beneficiary's after-tax return on and rate of recovery of investment and the annual net cash flows (computed on the same assumptions, including, without limitation, tax rates, as were utilized by the Beneficiary in originally evaluating this transaction) will not be increased or decreased by reason thereof; provided, however, that the rentals and Casualty Value percentages, as so adjusted, shall be sufficient to satisfy the obligations of the Lessor under the Security Document, notwithstanding any limitation of liability contained therein.

If any of the rental payment dates referred to above is not a business day the rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, or Baltimore, Maryland, are authorized or obligated to remain closed.

The Lessor irrevocably instructs the Lessee to make, and the Lessee agrees to make, all the payments provided for in this Lease for the account of the Lessor or its assigns, care of the Vendor at P. O. Box 2258, Baltimore, Maryland 21203, Attention of Corporate Trust Department, not later than 10:00 a.m., Baltimore time, on the date upon which such payments are due and payable. Such payments shall be accompanied by instructions to the Vendor, first, to apply

such payments to satisfy the obligations of the Lessor under the Security Document, subject to the limitations contained in the last paragraph of Article 3 of the Security Document, and, second, so long as no event of default or event which with the lapse of time and/or demand provided for in the Security Document could constitute an event of default under the Security Document shall have occurred and be continuing, to pay any balance promptly to the Lessor at such place as the Lessor shall specify in writing. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in New York or Baltimore Clearing House Funds by 10:00 a.m., local time, in the city where such payment is to be made.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due to, or by reason of, any past, present or future claims of the Lessee against the Lessor under this Lease or under the Security Document, or the Builder or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or failure of title of the Lessor to any of the Units or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against Lessee's use of all or any of the Units, the taking or requisitioning of any of the Units by condemnation or otherwise, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency, bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the

Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

Section 3. Term of Lease. The term of this Lease as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit and, subject to the provisions of Sections 6, 9 and 12 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due hereunder.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the Security Document. If an event of default should occur under the Security Document, the Vendor may terminate this Lease (or rescind its termination), all as provided therein.

Section 4. Identification Marks. The Lessee, so long as this Lease shall remain in effect, will cause each Unit to be kept numbered with the road number set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of such Unit, the legend required by Article 8 of the Security Document or other appropriate markings designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the Vendor under the Security Document. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such legend shall have been so marked on both sides thereof and will replace promptly any such legend which may be removed, obliterated, defaced or destroyed. The Lessee will not change the road number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Document shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to that effect and to the further effect that such filing, recordation and deposit will protect the Vendor's and the Lessor's interests in such Units and that no filing, recording, depositing or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Lessor in such Units.

Except as above provided, the Lessee, so long as this Lease shall remain in effect, will not allow the name of any person, association or corporation to be placed on the Units as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

Section 5. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor and the Beneficiary for collection or other charges and will be free of expense to the Lessor and the Beneficiary with respect to the amount of any local, state, Federal or foreign taxes (other than any United States Federal income tax and, to the extent that the Lessor or the Beneficiary receives credit therefor against its United States Federal income tax liability, any foreign income tax payable by said party in consequence of the receipt of payments provided herein and other than the aggregate of all state and city income taxes and franchise taxes measured by net income based on such receipts or gross receipts taxes other than gross receipts taxes in the nature of sales or use taxes, up to the amount of any such taxes which would be payable to the state and city in which the Lessor and the Beneficiary, respectively, has its principal place of business without apportionment to any other state or city, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), assessments, documentary stamp taxes, or license fees and any charges, fines or penalties in connection therewith (hereinafter called impositions) now or hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Security Document, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom or upon the Lessor solely by reason of its ownership thereof or on the Beneficiary solely by reason of its interest therein and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or the interest of the Beneficiary or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions so long as it is

contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the advance opinion of the Lessor and/or the Beneficiary affected thereby, adversely affect the title, property or rights of the Lessor or the interest of the Beneficiary hereunder or the Vendor under the Security Document. If any impositions shall have been charged or levied against the Lessor or the Beneficiary directly and paid by the Lessor or the Beneficiary, the Lessee shall reimburse such party on presentation of an invoice therefor.

In the event that the Lessor or the Beneficiary shall become obligated to make any payment to the Vendor pursuant to Article 5 of the Security Document not covered by the foregoing paragraph of this Section 5, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor and/or the Beneficiary as will enable the Lessor and/or the Beneficiary to fulfill completely its obligations pursuant to said Article 5.

In the event any reports with regard to impositions are required to be made on the basis of individual Units or otherwise, the Lessee will, where permitted to do so under applicable rules or regulations, make and timely file such reports in such manner as to show the interest of the Lessor and the Vendor in the Units as shall be satisfactory to the Lessor and the Vendor or, where not so permitted, will notify the Lessor and the Vendor of such requirement and will prepare and deliver such reports to the Lessor and the Vendor within a reasonable time prior to the time such reports are to be filed in such manner as shall be satisfactory to the Lessor and the Vendor.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any impositions, pursuant to this Section 5, such liability shall continue, notwithstanding the expiration of this Lease, until all such impositions are paid or reimbursed by the Lessee.

To the extent the Lessee may be prohibited by law from performing in its own name the duties required by this Section 5, the Lessor and the Beneficiary hereby authorizes the Lessee to act in the Lessor's and/or the Beneficiary's own name and on the Lessor's and/or the Beneficiary's behalf; provided, however, that the Lessee shall indemnify and hold the Lessor and the Beneficiary harmless from and

against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of, or incident to, any action by the Lessee pursuant to his authorization.

The Lessee shall, whenever reasonably requested by the Lessor or the Beneficiary, submit to the Lessor or the Beneficiary copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor or the Beneficiary of the Lessee's performance of its duties under this Section 5. The Lessee shall also furnish promptly upon request such data as the Lessor or the Beneficiary reasonably may require to permit the Lessor's or the Beneficiary's compliance with the requirements of taxing jurisdictions.

It is the intention of the parties hereto that (i) the Lessee will treat the Units covered by this Lease as part of the mass of property used by the Lessee in its operations as a common carrier and for ad valorem tax purposes will report the same to the various states and localities where it is required to do so and will pay the requisite tax thereon, and (ii) neither the Owner Trustee nor the Beneficiary will be required so to report any such property or to pay any ad valorem taxes with respect thereto.

Section 6. Maintenance; Payment for Casualty Occurrences; Insurance. The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit which is subject to this Lease in good operating order, repair and condition.

In the event that any Unit shall be or become worn out, lost, stolen, destroyed or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of this Lease or for an indefinite period, but only when such indefinite period shall exceed the term of this Lease or by any other governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days or until the end of the term of this Lease (each such occurrence being hereinafter called a Casualty Occurrence) prior to the return of such Unit in the manner set forth in Section 14 hereof, the Lessee shall, within thirty days after it shall have determined that such Unit has suffered a Casualty Occurrence, fully notify the Lessor and the Vendor in writing with respect thereto. Notwithstanding any such Casualty Occur-

rence, the Lessee shall continue making all payments provided for in this Lease in respect of such Unit until the rental payment date listed in Table 1 of Schedule B hereto next succeeding such notice. On such rental payment date the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus an amount equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with Schedule B hereto. Upon the making of all such payments by the Lessee in respect of any Unit, the rental for such Unit shall thereafter cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessee its agent, to dispose of any Unit suffering a Casualty Occurrence or any component thereof, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor.

The Casualty Value of each Unit as of the payment date on which payment is to be made as aforesaid shall be an amount equal to the sum of (a) that percentage of the Purchase Price of such Unit as is set forth in Table 1 of Schedule B hereto opposite such date with respect to such Unit plus (b) if applicable to such Unit, that percentage of the Reconstruction Cost thereof as set forth in Table 2 of said Schedule B with respect to such Unit; provided, however, that the Casualty Value percentages set forth in Schedule B hereto apply only to Units delivered and accepted for under the Security Document on or prior to December 31, 1978. With respect to any Unit delivered and accepted for after December 31, 1978, the Lessor and the Lessee agree that the Casualty Value percentages set forth in Schedule B hereto will be appropriately adjusted in order that the Beneficiary's after-tax return on and rate of recovery of investment and the annual net cash flows (computed on the same assumptions, including, without limitation, tax rates, as were utilized by the Beneficiary in originally evaluating this transaction) will not be increased or decreased by reason thereof; provided, however, that the Casualty Value percentages, as so adjusted, shall be sufficient to satisfy the obligations of the Lessor under the Security Document, notwithstanding any limitation of liability contained therein.

Whenever any Unit shall suffer a Casualty Occurrence at the end of the term of this Lease or after termina-

tion of this Lease and before such Unit shall have been returned in the manner provided in Section 13 hereof, the Lessee shall promptly and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit, which shall be an amount equal to 32.613% of the Purchase Price of such Unit. Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or complete destruction of such Unit), the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering such Casualty Occurrence or any component thereof, at the best price obtainable on an "as is, where is" basis, and the Lessee accepts such appointment and agrees to use its best efforts to dispose of any such unit in such manner. Provided that the Lessee has previously paid the Casualty Value to the Lessor, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor.

Except as hereinabove in this Section 6 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the responsibility for and risk of, any Casualty Occurrence to any Unit after delivery to and acceptance thereof by the Lessee hereunder.

The Lessee will, at all times prior to the return of the Equipment to the Lessor, at its own expense, cause to be carried and maintained property insurance in respect of the Units at the time subject hereto, and public liability insurance, in amounts and against risks customarily insured against by the Lessee in respect of similar equipment owned by it, and the benefits thereof shall be payable to the Vendor, the Lessor and the Lessee, as their interests may appear, so long as the indebtedness, if any, evidenced by the Security Document shall not have been paid in full, and thereafter to the Lessor and the Lessee as their interests may appear. If the Lessor shall receive any insurance proceeds from insurance maintained by the Lessee pursuant hereto or condemnation payments in respect of a Unit suffering a Casualty Occurrence, the Lessor shall, subject to the Lessee having made payment of the Casualty Value in respect of such Unit, pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor. All insurance proceeds received by the Lessor in respect of any Unit not suffering a Casualty Occur-

rence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

Section 7. Annual Reports. On or before March 31 in each year, commencing with the calendar year 1979, the Lessee will cause to be furnished to the Lessor, the Vendor and the Beneficiary, an accurate statement, as of the preceding December 31, showing the amount, description and numbers of the Units (a) then leased hereunder and/or covered by the Security Document, (b) that have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease in the case of the first such statement) and (c) then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs and setting forth such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, and stating that, in the case of all Units repainted or repaired during the period covered by such statement, the markings required by Section 4 hereof and by Article 8 of the Security Document shall have been preserved or replaced. The Lessor shall have the right at its sole cost, risk and expense, by its authorized representatives, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

Section 8. Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE, OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the Builder under the provisions of Article 12 of the Security Document; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense,

such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation, or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Delivery shall be conclusive evidence as between the Lessee and the Lessor that all Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that, prior to the expiration of this Lease or any renewal thereof, such laws or rules require any alteration, replacement, addition or modification of or to any part of any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor, respectively, under this Lease or under the Security Document. The Lessee, at its own cost and expense, may furnish additions, modifications and improvements to the Units during the term of this Lease provided that such additions, modifications and improvements are readily removable without causing material damage to the Units. The additions, modifications and improvements made by the Lessee under the first sentence of this paragraph shall be owned by the Lessor, and the additions, modifications and improvements made by the Lessee under the second sentence of this paragraph shall be owned by the Lessee.

Upon or prior to the return of any Unit by the Lessee to the Lessor pursuant to Section 10 or 13 hereof, the Lessee agrees that it will, at its expense, remove any additions, modifications and improvements made by the Lessee pursuant to the second sentence of this paragraph without causing material damage to such Unit. In the event the Lessee shall make any alteration, replacement, addition or modification to any Unit pursuant to the first sentence of this paragraph (the "Alterations"), the Lessor agrees that it will include the cost thereof in its gross income for Federal income tax purposes. The Lessee agrees that, within 30 days after the close of any calendar year (or in the event the Lessor gives the Lessee written notice that the Beneficiary's taxable year closes on a date specified therein other than December 31, within 30 days after said date) in which the Lessee has made Alterations, the Lessee will give written notice thereof to the Lessor describing, in reasonable detail, the Alterations and specifying the cost thereof with respect to each Unit.

The Lessee agrees to indemnify, protect and hold harmless the Lessor, the Beneficiary and the Vendor (in each case in their individual and fiduciary capacities) from and against all losses, damages, injuries, liabilities (including without limitation strict or absolute liabilities), claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, reasonable counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as a result of (i) the entering into or the performance of the Security Document, the Participation Agreement, the Hulk Purchase Agreement or this Lease, or any of the instruments or agreements referred to therein or herein or contemplated thereby or hereby, (ii) the ownership of any Hulk or any Unit, (iii) the ordering, acquisition, use, operation, condition, reconstruction, purchase, delivery, rejection, storage or return of any Hulk or any Unit, (iv) any accident in connection with the operation, use, condition, reconstruction, possession, storage or return of any Hulk or any Unit resulting in damage to property or injury or death to any person, except as otherwise provided in Section 13 of this Lease or (v) the transfer of title to the Equipment by the Vendor pursuant to any provision of the Security Document. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the delivery of the Equipment or the full payment and performance of all obligations under this Lease and the Hulk Purchase Agreement or the expiration or termination of the term of this Lease and/or the Hulk Purchase Agreement. Nothing in this Section 8 shall constitute a guaranty by the Lessee of the Conditional Sale

Indebtedness of the Lessor under the Security Document or a guaranty of the residual value of any Unit.

The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports (other than income tax returns) to be filed by the Lessor with any Federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee.

Section 9. Default. If, during the continuance of this Lease, one or more of the following events (each such event being herein sometimes called an Event of Default) shall occur:

A. default shall be made in the payment of any amount provided for in Sections 2, 6 or 12 hereof and such default shall continue for ten days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest therein, or of the right to possession of the Units, or any thereof;

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Participation Agreement and such default shall continue for 30 days after written notice from the Lessor or the Vendor to the Lessee specifying the default and demanding that the same be remedied;

D. a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under the Security Document and this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings (whether or not subject to ratification) in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any,

or 60 days after such petition shall have been filed, whichever shall be earlier;

E. any proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee under this Lease, the Participation Agreement or the Consent under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder, under the Participation Agreement or under the Consent), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease, under the Participation Agreement or under the Consent, as the case may be, shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

then, in any such case, the Lessor, at its option, may:

(a) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease

to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify:

(x) a sum, with respect to each Unit, equal to the excess of the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 1.433% per annum discount, compounded semi-annually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated; or (y) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event the Lessor shall have sold any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing

remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder and agrees to make rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

Section 10. Return of Units upon Default. If this Lease shall terminate pursuant to Section 9 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged to return the Unit or Units so interchanged) place such Units upon such storage tracks of the Lessee as the Lessor reasonably may designate;

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee for a period not exceeding 270 days without charge for insurance, rent or storage until such Units have been sold, leased or otherwise disposed of by the Lessor; and

(c) transport the same to any place on the lines of railroad operated by it or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor.

Each unit returned to the Lessor pursuant to this Section 10 shall comply with the requirements set forth in the penultimate sentence of the first paragraph of Section 13 hereof. The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same.

All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which the greater of (i) the daily Fair Rental Value (determined in the manner provided in Section 12 hereof) for such Unit, or (ii) an amount equal to 0.029925% of the Purchase Price of such Unit, exceeds the actual earnings received by the Lessor on such Unit for each such day plus the amount of any interest payable by the Lessor for any day during such period which is due under the Security Document because of the Lessor's failure to pay principal or interest thereunder on the due date thereof.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 10, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney-in-fact of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

Section 11. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. The Lessee hereby acknowledges notice of the assignment in respect of this Lease set forth in the Assignment of Lease and Agreement dated as of the date hereof, between the Lessor and the Vendor (a copy of which has been delivered to the Lessee), and agrees to make payments to the Vendor as provided therein. The rights of the Lessor hereunder (including, but not limited to, the rights under Sections 5, 6, 8 and 9 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Vendor as assignee thereunder in the manner and to the extent therein provided. In the event that, pursuant to such assignment and the rights of the Vendor thereunder and under the Security Document, the Vendor shall at any time cause this Lease to be terminated, the Lessee agrees that following the payment in full by the Vendee of the entire unpaid Conditional Sale Indebtedness (as defined in the Security Document) together with interest thereon, the Vendee may enforce compliance by the Lessee with its covenants and agreements under this Lease.

So long as the Lessee shall not be in default under this Lease and no event of default exists under the Security Document, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease but, without the prior written consent of the Lessor and the Vendor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them. The Lessee, at its own expense, will promptly pay or discharge or cause to be paid and duly discharged any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or the Vendor after the date hereof or resulting from claims against the Lessor or the Vendor not related to the ownership of the Units), upon or with respect to any Unit or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, charge, security interest or other encumbrance which arises. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the next paragraph hereof.

Subject to the terms of this Lease, the Lessee shall be entitled to the possession of the Units and to the use

thereof by it or any affiliate upon lines of railroad owned or operated by it or any such affiliate or upon the lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic and equipment, but only upon and subject to all the terms and conditions of this Lease, including the last paragraph of this Section 11, and the Security Document. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this Section 11 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the railroad properties of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease.

The Lessee agrees that during the term of this Lease, it will not assign any Unit to service involving the regular operation and maintenance thereof outside the United States of America.

Section 12. Renewal Option. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may elect, by written notice delivered to the Lessor not less than six months prior to the end of the then current term of this Lease to extend the term of this Lease in respect of all, but not less than all, the Units then covered by this Lease for (a) one additional one and one-half-year term commencing on the scheduled expiration of the original term at a semiannual rental equal to 60% of the semiannual rental for the original term; (b) one additional one-year period commencing on the scheduled expiration of the first extended term at a semiannual rental equal to 60% of the semiannual rental for the original term; and (c) for one or two additional one-year periods commencing on the scheduled expiration of the

immediately prior extended term at a semiannual rental equal to the "Fair Market Rental" of such Units as of the commencement of any such extended term. All such semiannual rental payments shall be made on April 20 and October 20 of each year of the applicable extended term. Fair Market Rental shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee (other than (i) a lessee currently in possession or (ii) a used equipment dealer) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such value and in all cases Units shall be appraised as if the Lessee had maintained the same in accordance with Section 6 hereof.

If, after 50 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease pursuant to clause (c) of the preceding paragraph, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such rental shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 days after such notice is given, each party shall appoint an independent appraiser within 25 days after such notice is given, and the two appraisers so appointed shall within 35 days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 60 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental. The appraisal proceedings shall be

conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne by the Lessee.

Section 13. Return of Units upon Expiration of Term. As soon as practicable on or after the expiration of the original or any extended term of this Lease with respect to any Unit but in any event not later than 90 days after such expiration, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks of the Lessee or any of its affiliates as the Lessor may designate or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding three months and transport the same, at any time within such three-month period, to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Unit to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of any Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this Section 13 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, and/or the applicable rules of any governmental agency or other organization with jurisdiction and (iii) have removed therefrom by the Lessee without cost or expense to the Lessor all additions, modifications and improvements which the Lessee owns pursuant to Section 8 hereof. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises,

the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units.

All amounts earned in respect of the Units after the end of the term of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after the end of the term of this Lease, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which the greater of (i) the daily Fair Rental Value (determined in the manner provided in Section 12 hereof) for such Unit, or (ii) an amount equal to 0.029495% of the Purchase Price of such Unit, exceeds the actual earnings received by the Lessor on such Unit for each such day.

Section 14. Severability. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 15. Recording; Expenses. The Lessee, at its own expense, will cause this Lease, the Security Document and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will undertake the filing, recording and depositing and refiling, re-recording and redepositing required of the Lessor under the Security Document and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, re-register, re-record or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease or the assignment hereof to the Vendor, or the Security Document; and the Lessee will promptly furnish to the Vendor and the Lessor evidences of all such filing, registering, recording or depositing, and an opinion or opinions of counsel for

the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease and the Security Document shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any unit.

Section 16. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations when due hereunder shall result in the obligation on the part of the Lessee promptly to pay also an amount equal to 10-3/8% per annum of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

Section 17. Notices. Any instruction or notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States mails, first-class postage prepaid, addressed as follows:

if to the Lessor, at

One Constitution Plaza,
Hartford, Connecticut 06115,

Attention of Corporate Trust Department,

with a copy to the Beneficiary and to GATX Leasing Corporation, One Embarcadero Center, San Francisco, California 94111, Attention of Contracts Administration,

if to the Lessee, at

908 West Broadway
Louisville, Kentucky 40201,

if to the Vendor, at

P. O. Box 2258,
Baltimore, Maryland 21203,

Attention of Corporate Trust Department,

or addressed to any such party at such other address as such party shall hereafter furnish to the other party in writing. Copies of each such notice shall be given to the Vendor as hereinabove provided.

Section 18. Effect and Modification of Lease.

Except for the Participation Agreement and the Indemnity Agreements dated as of the date hereof between the Lessee and the Beneficiary, this Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Lessor and the Lessee.

Section 19. Execution. This Lease may be executed in several counterparts, such counterparts together

constituting but one and the same instrument, but the counterpart delivered to the Lessor shall be deemed to be the original counterpart. It shall not be necessary that any counterpart be signed by both parties so long as each party shall sign at least one counterpart. This Lease shall be valid, binding and effective at such time as the Vendor shall have received (or as to which the Vendor shall have received attested telegraphic communication confirming execution of) counterparts executed by the Lessor and the Lessee. Although this Lease is dated as of the date first set forth above for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

Section 20. Law Governing. The terms of this

Lease and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Kentucky; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

Section 21. Immunities; No Recourse. It is

expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all the representations, warranties, undertakings and agreements herein made on the part of the Lessor are each and every one of them made and intended not as personal representations, warranties, undertakings and agreements by the Lessor in its individual capacity, or for the purpose or with the intention of binding the Lessor personally, but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Lease is executed and delivered by the Lessor solely

in the exercise of the powers expressly conferred upon it as trustee under the Trust Agreement; and except in the case of gross negligence or wilful misconduct, no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Lessor on account of any representation, warranty, undertaking or agreement herein of the Lessor, either express or implied, all such personal liability, if any, being expressly waived and released by the Lessee.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officers, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

THE CONNECTICUT BANK AND TRUST
COMPANY, not in its individual
capacity but solely as Owner Trustee,

by


Authorized Officer

[Seal]

Attest:


Authorized Officer

LOUISVILLE AND NASHVILLE RAILROAD
COMPANY,

by

Assistant Vice President

[Corporate Seal]

Attest:

Assistant Secretary

STATE OF CONNECTICUT,)
) ss.:
 COUNTY OF HARTFORD,)

On this 18th day of July 1978, before me personally appeared **DONALD E. SMITH**, to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of THE CONNECTICUT BANK AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


 Notary Public

[Notarial Seal]

My Commission expires

BARBARA S. KACICH
 NOTARY PUBLIC
 MY COMMISSION EXPIRES MARCH 31, 1982

COMMONWEALTH OF KENTUCKY,)
 : ss.:
 COUNTY OF JEFFERSON,)

On this day of 1978, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is Assistant Vice President of LOUISVILLE AND NASHVILLE RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that such instrument was this day signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

 Notary Public

[Notarial Seal]

My Commission expires

SCHEDULE A

<u>Quantity*</u>	<u>AAR Mechanical Designation</u>	<u>Description</u>	<u>L&N* Railroad Road Numbers (Inclusive)</u>	<u>Builder's Specification Number</u>
105	XL	50-Ton Box Cars	96489-96593	L&N 78-1
10	XM	50-Ton Box Cars	110242-110251	L&N 78-1
49	XL	70-Ton Box Cars	112368-112416	L&N 78-1
36	XM	70-Ton Box Cars	112841-112876	L&N 78-1
56	HT	70-Ton Open Top Hoppers	76394-76449	L&N 78-2
86	HT	80-Ton Open Top Hoppers	189558-189643	L&N 78-2
33	HT	100-Ton Open Top Hoppers	192057-192089	L&N 78-2
206	GB	70-Ton Gondola Cars	26745-26747 27327-27398 27554-27644 27748-27763 29020-29041 29200-29201	L&N 78-3
2	GBS	70-Ton Gondola Cars	26283-26284	L&N 78-3
1	GBSR	70-Ton Gondola Car	26259	L&N 78-3

<u>Quantity*</u>	<u>AAR Mechanical Designation</u>	<u>Description</u>	<u>L&N* Railroad Road Numbers (Inclusive)</u>	<u>Builder's Specification Number</u>
9	LG	70-Ton Gondola Cars	27399-27405 27764-27765	L&N 78-3
12	GBS	100-Ton Gondola Cars	27983-27994	L&N 78-3
20	GB	100-Ton Gondola Cars	27645-27664	L&N 78-3
80	LO	100-Ton Covered Hopper Cars	201615-201655 205158-205179 250500-250516	L&N 78-4
8	FMS	70-Ton Flat Cars	22295 23916-23922	L&N 78-8
4	FB	70-Ton Bulkhead Flat Cars	990602, 990910 991004, 991005	L&N 78-5
2	FB	100-Ton Bulkhead Flat Cars	990309, 990310	L&N 78-5
2	FB	100-Ton Bulkhead Flat Cars	990400, 990401	L&N 78-5
24	FM	50-Ton Flat Cars	21510 21553-21556 21748-21766	L&N 78-8
50	LO	70-Ton Covered Hopper Cars to Ballast Cars	45101-45150	L&N 78-6

<u>Quantity*</u>	<u>AAR Mechanical Designation</u>	<u>Description</u>	<u>L&N* Railroad Road Numbers (Inclusive)</u>	<u>Builder's Specification Number</u>
33	LP	50-Ton Pulpwood to Welded Rail Cars	42934-42966	L&N 78-7
828				

* Although this Schedule A sets forth the description of 828 Units, Lease No. 2, dated as of the date hereof, between The Connecticut Bank and Trust Company, as Trustee, Lessor, and Louisville and Nashville Railroad Company, Lessee, will cover only those Units, having an aggregate purchase price not exceeding \$7,000,000, which are delivered to said Lessor under Reconstruction and Conditional Sale Agreement No. 2, dated as of the date hereof, between Mercantile-Safe Deposit and Trust Company, as Agent, L&N Investment Corporation and said Lessor. Following completion of deliveries, this Schedule A will be amended to delete from the description those Units not covered.

SCHEDULE B

Casualty Value Percentages ScheduleTable 1

<u>Rental No.</u>	<u>Rental Payment Date</u>	<u>Percentage of Purchase Price for each Unit</u>
Interim	April 20, 1979	92.874
1	October 20, 1979	91.897
2	April 20, 1980	90.269
3	October 20, 1980	89.025
4	April 20, 1981	86.767
5	October 20, 1981	85.200
6	April 20, 1982	82.629
7	October 20, 1982	79.399
8	April 20, 1983	76.487
9	October 20, 1983	74.199
10	April 20, 1984	70.895
11	October 20, 1984	67.897
12	April 20, 1985	64.415
13	October 20, 1985	61.251
14	April 20, 1986	57.437
15	October 20, 1986	53.902
16	April 20, 1987	49.813
17	October 20, 1987	45.945
18	April 20, 1988	41.540
19	October 20, 1988	37.328
20	April 20, 1989, and thereafter	32.613

Table 2

The percentages set forth in Table 1 of this Schedule B have been computed without regard to recapture of the Investment Credit (as defined in the Indemnity Agreements dated as of the date hereof, between the Lessee and the Beneficiary). Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence on or before the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the Reconstruction Cost set forth below:

Anniversary of
Delivery and AcceptancePercentage of Reconstruction Cost

Third	19.231
Fifth	12.821
Seventh	6.411

[CS&M Ref: 3750-017]

LEASE OF RAILROAD EQUIPMENT
(No. 2)

Dated as of February 1, 1978

Between

LOUISVILLE AND NASHVILLE RAILROAD COMPANY,
as Lessee,

and

THE CONNECTICUT BANK AND TRUST COMPANY,
not in its individual capacity but solely as Owner Trustee,
as Lessor

LEASE OF RAILROAD EQUIPMENT

TABLE OF CONTENTS*

	<u>Page</u>
PARTIES	L-1
PREAMBLES	L-1
SECTION 1.	
Delivery and Acceptance of Units	L-2
SECTION 2.	
Rental	L-2
SECTION 3.	
Term of Lease	L-5
SECTION 4.	
Identification Marks	L-5
SECTION 5.	
Taxes	L-6
SECTION 6.	
Maintenance; Payment for Casualty Occurrences; Insurance	L-8
SECTION 7.	
Annual Reports	L-11

* This Table of Contents has been included in this document for convenience only and does not form a part of, or affect any construction or interpretation of this document.

Page

SECTION 8.

Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification	L-11
--	------

SECTION 9.

Default	L-14
---------------	------

SECTION 10.

Return of Units upon Default	L-17
------------------------------------	------

SECTION 11.

Assignment; Possession and Use	L-19
--------------------------------------	------

SECTION 12.

Renewal Option.	L-20
----------------------	------

SECTION 13.

Return of Units upon Expiration of Term	L-22
---	------

SECTION 14.

Severability	L-23
--------------------	------

SECTION 15.

Recording; Expenses	L-23
---------------------------	------

SECTION 16.

Interest on Overdue Rentals	L-24
-----------------------------------	------

SECTION 17.

Notices	L-24
---------------	------

SECTION 18.

Effect and Modification of Lease	L-25
--	------

	<u>Page</u>
SECTION 19.	
Execution	L-25
SECTION 20.	
Law Governing	L-25
SECTION 21.	
Immunities; No Recourse	L-25
TESTIMONIUM	L-26
SIGNATURES	L-26
SCHEDULE A--Specifications of the Equipment	L-28
SCHEDULE B--Casualty Value Percentages Schedule	L-31

LEASE OF RAILROAD EQUIPMENT No. 2, dated as of February 1, 1978, between LOUISVILLE AND NASHVILLE RAILROAD COMPANY (hereinafter called the Lessee) and THE CONNECTICUT BANK AND TRUST COMPANY, a Connecticut banking corporation, not in its individual capacity but solely as Trustee (hereinafter called the Lessor or the Vendee) under a Trust Agreement No. 2 dated as of the date hereof (hereinafter called the Trust Agreement), with American Security Bank, N.A. (hereinafter called a Beneficiary).

Mercantile-Safe Deposit and Trust Company, not in its individual capacity but solely as Agent under a Participation Agreement No. 2 dated as of the date hereof (hereinafter called the Participation Agreement) with the Lessor, the Lessee, the Beneficiary and the parties named in Schedule A thereto (said Agent, as so acting, being hereinafter, together with its successors and assigns, called the Vendor), L & N Investment Corporation (hereinafter called the Builder) and the Vendee are entering into a Reconstruction and Conditional Sale Agreement No. 2 dated as of the date hereof (hereinafter called the Security Document), wherein the Vendor has agreed to sell to the Vendee its interest in the railroad equipment described in Schedule A hereto after it has been reconstructed by the Builder.

The Lessee desires to lease all the units of said equipment, or such lesser number as are delivered, accepted and settled for under the Security Document on or prior to the Cut-Off Date (as defined in Article 3 of the Security Document) (such units being hereinafter called the Units), at the rentals and for the terms and upon the conditions hereinafter provided.

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Units to the Lessee upon the following terms and conditions, but subject to all the rights and remedies of the Vendor under the Security Document:

Section 1. Delivery and Acceptance of Units. The Lessor will cause each Unit to be tendered to the Lessee at the point or points within the United States of America at which such Unit is delivered to the Lessor under the Security Document. Upon such tender, the Lessee will cause an authorized representative of the Lessee to inspect the same, and if such Unit is found to be in good order, to accept delivery of such Unit and execute and deliver to the Lessor and the Builder a certificate of acceptance and delivery (hereinafter called the Certificate of Delivery), whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all the terms and conditions of this Lease.

Section 2. Rental. The Lessee agrees to pay to the Lessor as rental for each Unit subject to this Lease three interim and 20 consecutive semiannual payments. The interim payments are payable on October 20, 1978, April 20, 1979, and the Cut-Off Date (as defined in the Participation Agreement) or as promptly thereafter as practicable. The 20 semiannual payments are payable on April 20 and October 20 in each year, commencing October 20, 1979, to and including April 20, 1989. The interim payment on October 20, 1978, shall be in an amount equal to the sum of (i) the product of the Purchase Price (as such term is defined in the Security Document) for each Unit subject to the Lease multiplied by .0246528% for each day elapsed from and including the date such Unit is settled for under the Security Document to but not including October 20, 1978, plus (ii) an amount equal to the amount required by the Lessor to make the payment on October 20, 1978, provided for in clause (b) of the last paragraph of Paragraph 9 of the Participation Agreement. The interim payment on April 20, 1979, shall be in an amount equal to the sum of (i) the product of the Purchase Price for each Unit subject to the Lease multiplied by .0246528% for each day elapsed from and including the later of October 20, 1978, or the date such Unit is settled for under the Security Document to but not including April 20, 1979, plus (ii) an amount equal to the amount required by the Lessor to make the payment on April 20, 1979, provided for in clause (b) of the last paragraph of Paragraph 9 of the Participation Agreement. The interim payment payable on the Cut-Off Date (or as promptly thereafter as practicable) shall be in an amount equal to the amount payable by the Owner Trustee to the Agent pursuant to clause (a) of the last paragraph of Paragraph 9 of the Participation Agreement. The 20 semiannual rental payments with respect to each Unit then subject to this Lease shall each be in an amount equal

to 5.386418% of the Purchase Price of each such Unit for each Unit delivered and accepted under the Security Document on or prior to December 31, 1978; and the applicable percentage of the Purchase Price of each such Unit shall be 5.868304% for each Unit delivered and accepted from January 1, 1979, through April 20, 1979. The foregoing rental rates have been calculated on the assumption that 70.44718% of the Purchase Price of the Units will be provided by the Vendor out of Investors' Funds (as such term is defined in Paragraph 6 of the Participation Agreement). If for any reason the Investors' Funds are not available and the Lessor pays more than 29.55282% of the Purchase Price of any Unit pursuant to the third paragraph of Article 3 of the Security Document on a Closing Date (as such term is defined in the Security Document) or if the Reconstruction Cost (as defined in the Security Document) of all units settled for under the Security Document is other than 73.57446% of the Purchase Price of such Units, the Lessor and the Lessee agree that the rentals payable hereunder and the Casualty Value percentages set forth in Schedule B hereto will be appropriately adjusted in order that the Beneficiary's after-tax return on and rate of recovery of investment and the annual net cash flows (computed on the same assumptions, including, without limitation, tax rates, as were utilized by the Beneficiary in originally evaluating this transaction) will not be increased or decreased by reason thereof; provided, however, that the rentals and Casualty Value percentages, as so adjusted, shall be sufficient to satisfy the obligations of the Lessor under the Security Document, notwithstanding any limitation of liability contained therein.

If any of the rental payment dates referred to above is not a business day the rental payment otherwise payable on such date shall be payable on the next succeeding business day. The term "business day" as used herein means a calendar day, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, or Baltimore, Maryland, are authorized or obligated to remain closed.

The Lessor irrevocably instructs the Lessee to make, and the Lessee agrees to make, all the payments provided for in this Lease for the account of the Lessor or its assigns, care of the Vendor at P. O. Box 2258, Baltimore, Maryland 21203, Attention of Corporate Trust Department, not later than 10:00 a.m., Baltimore time, on the date upon which such payments are due and payable. Such payments shall be accompanied by instructions to the Vendor, first, to apply

such payments to satisfy the obligations of the Lessor under the Security Document, subject to the limitations contained in the last paragraph of Article 3 of the Security Document, and, second, so long as no event of default or event which with the lapse of time and/or demand provided for in the Security Document could constitute an event of default under the Security Document shall have occurred and be continuing, to pay any balance promptly to the Lessor at such place as the Lessor shall specify in writing. The Lessee agrees to make each payment provided for herein as contemplated by this paragraph in New York or Baltimore Clearing House Funds by 10:00 a.m., local time, in the city where such payment is to be made.

This Lease is a net lease and the Lessee shall not be entitled to any abatement of rent, reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due or alleged to be due to, or by reason of, any past, present or future claims of the Lessee against the Lessor under this Lease or under the Security Document, or the Builder or the Vendor or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or failure of title of the Lessor to any of the Units or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the Units, the prohibition of or other restriction against Lessee's use of all or any of the Units, the taking or requisitioning of any of the Units by condemnation or otherwise, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency, bankruptcy, reorganization or similar proceeding against the Lessee, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the

Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

Section 3. Term of Lease. The term of this Lease as to each Unit shall begin on the date of the delivery to and acceptance by the Lessee of such Unit and, subject to the provisions of Sections 6, 9 and 12 hereof, shall terminate on the date on which the final payment of rent in respect thereof is due hereunder.

Notwithstanding anything to the contrary contained herein, all rights and obligations of the Lessee under this Lease and in and to the Units are subject to the rights of the Vendor under the Security Document. If an event of default should occur under the Security Document, the Vendor may terminate this Lease (or rescind its termination), all as provided therein.

Section 4. Identification Marks. The Lessee, so long as this Lease shall remain in effect, will cause each Unit to be kept numbered with the road number set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of such Unit, the legend required by Article 8 of the Security Document or other appropriate markings designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect Lessor's and Vendor's title to and property in such Unit and the rights of the Lessor under this Lease and of the Vendor under the Security Document. The Lessee will not place any such Unit in operation or exercise any control or dominion over the same until such legend shall have been so marked on both sides thereof and will replace promptly any such legend which may be removed, obliterated, defaced or destroyed. The Lessee will not change the road number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Vendor and the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Document shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Vendor and the Lessor an opinion of counsel to that effect and to the further effect that such filing, recordation and deposit will protect the Vendor's and the Lessor's interests in such Units and that no filing, recording, depositing or giving of notice with or to any other Federal, state or local government or agency thereof is necessary to protect the interests of the Vendor and the Lessor in such Units.

Except as above provided, the Lessee, so long as this Lease shall remain in effect, will not allow the name of any person, association or corporation to be placed on the Units as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Units to be lettered with the names or initials or other insignia customarily used by the Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their rights to use the Units as permitted under this Lease.

Section 5. Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor and the Beneficiary for collection or other charges and will be free of expense to the Lessor and the Beneficiary with respect to the amount of any local, state, Federal or foreign taxes (other than any United States Federal income tax and, to the extent that the Lessor or the Beneficiary receives credit therefor against its United States Federal income tax liability, any foreign income tax payable by said party in consequence of the receipt of payments provided herein and other than the aggregate of all state and city income taxes and franchise taxes measured by net income based on such receipts or gross receipts taxes other than gross receipts taxes in the nature of sales or use taxes, up to the amount of any such taxes which would be payable to the state and city in which the Lessor and the Beneficiary, respectively, has its principal place of business without apportionment to any other state or city, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided), assessments, documentary stamp taxes, or license fees and any charges, fines or penalties in connection therewith (hereinafter called impositions) now or hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title under the terms hereof or the Security Document, all of which impositions the Lessee assumes and agrees to pay on demand in addition to the payments to be made by it provided for herein. The Lessee will also pay promptly all impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom or upon the Lessor solely by reason of its ownership thereof or on the Beneficiary solely by reason of its interest therein and will keep at all times all and every part of such Unit free and clear of all impositions which might in any way affect the title of the Lessor or the interest of the Beneficiary or result in a lien upon any such Unit; provided, however, that the Lessee shall be under no obligation to pay any impositions so long as it is

contesting in good faith and by appropriate legal proceedings such impositions and the nonpayment thereof does not, in the advance opinion of the Lessor and/or the Beneficiary affected thereby, adversely affect the title, property or rights of the Lessor or the interest of the Beneficiary hereunder or the Vendor under the Security Document. If any impositions shall have been charged or levied against the Lessor or the Beneficiary directly and paid by the Lessor or the Beneficiary, the Lessee shall reimburse such party on presentation of an invoice therefor.

In the event that the Lessor or the Beneficiary shall become obligated to make any payment to the Vendor pursuant to Article 5 of the Security Document not covered by the foregoing paragraph of this Section 5, the Lessee shall pay such additional amounts (which shall also be deemed impositions hereunder) to the Lessor and/or the Beneficiary as will enable the Lessor and/or the Beneficiary to fulfill completely its obligations pursuant to said Article 5.

In the event any reports with regard to impositions are required to be made on the basis of individual Units or otherwise, the Lessee will, where permitted to do so under applicable rules or regulations, make and timely file such reports in such manner as to show the interest of the Lessor and the Vendor in the Units as shall be satisfactory to the Lessor and the Vendor or, where not so permitted, will notify the Lessor and the Vendor of such requirement and will prepare and deliver such reports to the Lessor and the Vendor within a reasonable time prior to the time such reports are to be filed in such manner as shall be satisfactory to the Lessor and the Vendor.

In the event that, during the continuance of this Lease, the Lessee becomes liable for the payment or reimbursement of any impositions, pursuant to this Section 5, such liability shall continue, notwithstanding the expiration of this Lease, until all such impositions are paid or reimbursed by the Lessee.

To the extent the Lessee may be prohibited by law from performing in its own name the duties required by this Section 5, the Lessor and the Beneficiary hereby authorizes the Lessee to act in the Lessor's and/or the Beneficiary's own name and on the Lessor's and/or the Beneficiary's behalf; provided, however, that the Lessee shall indemnify and hold the Lessor and the Beneficiary harmless from and

against any and all claims, costs, expenses, damages, losses and liabilities incurred in connection therewith as a result of, or incident to, any action by the Lessee pursuant to his authorization.

The Lessee shall, whenever reasonably requested by the Lessor or the Beneficiary, submit to the Lessor or the Beneficiary copies of returns, statements, reports, billings and remittances, or furnish other evidence satisfactory to the Lessor or the Beneficiary of the Lessee's performance of its duties under this Section 5. The Lessee shall also furnish promptly upon request such data as the Lessor or the Beneficiary reasonably may require to permit the Lessor's or the Beneficiary's compliance with the requirements of taxing jurisdictions.

It is the intention of the parties hereto that (i) the Lessee will treat the Units covered by this Lease as part of the mass of property used by the Lessee in its operations as a common carrier and for ad valorem tax purposes will report the same to the various states and localities where it is required to do so and will pay the requisite tax thereon, and (ii) neither the Owner Trustee nor the Beneficiary will be required so to report any such property or to pay any ad valorem taxes with respect thereto.

Section 6. Maintenance; Payment for Casualty Occurrences; Insurance. The Lessee agrees that, at its own cost and expense, it will maintain and keep each Unit which is subject to this Lease in good operating order, repair and condition.

In the event that any Unit shall be or become worn out, lost, stolen, destroyed or, in the opinion of the Lessee, irreparably damaged, from any cause whatsoever, or taken or requisitioned by condemnation or otherwise by the United States Government for a stated period which shall exceed the then remaining term of this Lease or for an indefinite period, but only when such indefinite period shall exceed the term of this Lease or by any other governmental entity resulting in loss of possession by the Lessee for a period of 90 consecutive days or until the end of the term of this Lease (each such occurrence being hereinafter called a Casualty Occurrence) prior to the return of such Unit in the manner set forth in Section 14 hereof, the Lessee shall, within thirty days after it shall have determined that such Unit has suffered a Casualty Occurrence, fully notify the Lessor and the Vendor in writing with respect thereto. Notwithstanding any such Casualty Occur-

rence, the Lessee shall continue making all payments provided for in this Lease in respect of such Unit until the rental payment date listed in Table 1 of Schedule B hereto next succeeding such notice. On such rental payment date the Lessee shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit due and payable on such date plus an amount equal to the Casualty Value (as hereinafter defined) of such Unit as of the date of such payment in accordance with Schedule B hereto. Upon the making of all such payments by the Lessee in respect of any Unit, the rental for such Unit shall thereafter cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessee its agent, to dispose of any Unit suffering a Casualty Occurrence or any component thereof, at the best price obtainable on an "as is, where is" basis. Provided that the Lessee has previously paid the Casualty Value to the Lessor, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor.

The Casualty Value of each Unit as of the payment date on which payment is to be made as aforesaid shall be an amount equal to the sum of (a) that percentage of the Purchase Price of such Unit as is set forth in Table 1 of Schedule B hereto opposite such date with respect to such Unit plus (b) if applicable to such Unit, that percentage of the Reconstruction Cost thereof as set forth in Table 2 of said Schedule B with respect to such Unit; provided, however, that the Casualty Value percentages set forth in Schedule B hereto apply only to Units delivered and accepted for under the Security Document on or prior to December 31, 1978. With respect to any Unit delivered and accepted for after December 31, 1978, the Lessor and the Lessee agree that the Casualty Value percentages set forth in Schedule B hereto will be appropriately adjusted in order that the Beneficiary's after-tax return on and rate of recovery of investment and the annual net cash flows (computed on the same assumptions, including, without limitation, tax rates, as were utilized by the Beneficiary in originally evaluating this transaction) will not be increased or decreased by reason thereof; provided, however, that the Casualty Value percentages, as so adjusted, shall be sufficient to satisfy the obligations of the Lessor under the Security Document, notwithstanding any limitation of liability contained therein.

Whenever any Unit shall suffer a Casualty Occurrence at the end of the term of this Lease or after termina-

tion of this Lease and before such Unit shall have been returned in the manner provided in Section 13 hereof, the Lessee shall promptly and fully notify the Lessor with respect thereto and pay to the Lessor an amount equal to the Casualty Value of such Unit, which shall be an amount equal to 32.613% of the Purchase Price of such Unit. Upon the making of any such payment by the Lessee in respect of any Unit (except in the case of the loss, theft or complete destruction of such Unit), the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessee its agent to dispose of any Unit suffering such Casualty Occurrence or any component thereof, at the best price obtainable on an "as is, where is" basis, and the Lessee accepts such appointment and agrees to use its best efforts to dispose of any such unit in such manner. Provided that the Lessee has previously paid the Casualty Value to the Lessor, the Lessee shall be entitled to the proceeds of such sale to the extent they do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor.

Except as hereinabove in this Section 6 provided, the Lessee shall not be released from its obligations hereunder in the event of, and shall bear the responsibility for and risk of, any Casualty Occurrence to any Unit after delivery to and acceptance thereof by the Lessee hereunder.

The Lessee will, at all times prior to the return of the Equipment to the Lessor, at its own expense, cause to be carried and maintained property insurance in respect of the Units at the time subject hereto, and public liability insurance, in amounts and against risks customarily insured against by the Lessee in respect of similar equipment owned by it, and the benefits thereof shall be payable to the Vendor, the Lessor and the Lessee, as their interests may appear, so long as the indebtedness, if any, evidenced by the Security Document shall not have been paid in full, and thereafter to the Lessor and the Lessee as their interests may appear. If the Lessor shall receive any insurance proceeds from insurance maintained by the Lessee pursuant hereto or condemnation payments in respect of a Unit suffering a Casualty Occurrence, the Lessor shall, subject to the Lessee having made payment of the Casualty Value in respect of such Unit, pay such proceeds or condemnation payments to the Lessee up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessee and any balance of such proceeds or condemnation payments shall remain the property of the Lessor. All insurance proceeds received by the Lessor in respect of any Unit not suffering a Casualty Occur-

rence shall be paid to the Lessee upon proof satisfactory to the Lessor that any damage to such Unit in respect of which such proceeds were paid has been fully repaired.

Section 7. Annual Reports. On or before March 31 in each year, commencing with the calendar year 1979, the Lessee will cause to be furnished to the Lessor, the Vendor and the Beneficiary, an accurate statement, as of the preceding December 31, showing the amount, description and numbers of the Units (a) then leased hereunder and/or covered by the Security Document, (b) that have suffered a Casualty Occurrence during the preceding 12 months (or since the date of this Lease in the case of the first such statement) and (c) then undergoing repairs (other than running repairs) or then withdrawn from use pending such repairs and setting forth such other information regarding the condition and state of repair of the Units as the Lessor or the Vendor may reasonably request, and stating that, in the case of all Units repainted or repaired during the period covered by such statement, the markings required by Section 4 hereof and by Article 8 of the Security Document shall have been preserved or replaced. The Lessor shall have the right at its sole cost, risk and expense, by its authorized representatives, to inspect the Units and the Lessee's records with respect thereto at such reasonable times as the Lessor may request during the continuance of this Lease.

Section 8. Disclaimer of Warranties; Compliance with Laws and Rules; Indemnification. THE LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF, OR AS TO QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS DELIVERED TO THE LESSEE HEREUNDER, AND THE LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS FOR ANY PARTICULAR PURPOSE OR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNIT, EITHER UPON DELIVERY THEREOF TO THE LESSEE, OR OTHERWISE, it being agreed that all such risks, as between the Lessor and the Lessee, are to be borne by the Lessee; but the Lessor hereby irrevocably appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessee, as their interests may appear, at the Lessee's sole cost and expense, whatever claims and rights the Lessor may have against the Builder under the provisions of Article 12 of the Security Document; provided, however, that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense,

such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation, or performance of any Units or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Units. The Lessee's delivery of a Certificate of Delivery shall be conclusive evidence as between the Lessee and the Lessor that all Units described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessee agrees, for the benefit of the Lessor and the Vendor, to comply in all respects (including, without limitation, with respect to the use, maintenance and operation of each Unit) with all applicable laws of the jurisdictions in which its operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units, and in the event that, prior to the expiration of this Lease or any renewal thereof, such laws or rules require any alteration, replacement, addition or modification of or to any part of any Unit, the Lessee will conform therewith at its own expense; provided, however, that the Lessee may at its own expense, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Vendor, adversely affect the property or rights of the Lessor or the Vendor, respectively, under this Lease or under the Security Document. The Lessee, at its own cost and expense, may furnish additions, modifications and improvements to the Units during the term of this Lease provided that such additions, modifications and improvements are readily removable without causing material damage to the Units. The additions, modifications and improvements made by the Lessee under the first sentence of this paragraph shall be owned by the Lessor, and the additions, modifications and improvements made by the Lessee under the second sentence of this paragraph shall be owned by the Lessee.

Upon or prior to the return of any Unit by the Lessee to the Lessor pursuant to Section 10 or 13 hereof, the Lessee agrees that it will, at its expense, remove any additions, modifications and improvements made by the Lessee pursuant to the second sentence of this paragraph without causing material damage to such Unit. In the event the Lessee shall make any alteration, replacement, addition or modification to any Unit pursuant to the first sentence of this paragraph (the "Alterations"), the Lessor agrees that it will include the cost thereof in its gross income for Federal income tax purposes. The Lessee agrees that, within 30 days after the close of any calendar year (or in the event the Lessor gives the Lessee written notice that the Beneficiary's taxable year closes on a date specified therein other than December 31, within 30 days after said date) in which the Lessee has made Alterations, the Lessee will give written notice thereof to the Lessor describing, in reasonable detail, the Alterations and specifying the cost thereof with respect to each Unit.

The Lessee agrees to indemnify, protect and hold harmless the Lessor, the Beneficiary and the Vendor (in each case in their individual and fiduciary capacities) from and against all losses, damages, injuries, liabilities (including without limitation strict or absolute liabilities), claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, reasonable counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as a result of (i) the entering into or the performance of the Security Document, the Participation Agreement, the Hulk Purchase Agreement or this Lease, or any of the instruments or agreements referred to therein or herein or contemplated thereby or hereby, (ii) the ownership of any Hulk or any Unit, (iii) the ordering, acquisition, use, operation, condition, reconstruction, purchase, delivery, rejection, storage or return of any Hulk or any Unit, (iv) any accident in connection with the operation, use, condition, reconstruction, possession, storage or return of any Hulk or any Unit resulting in damage to property or injury or death to any person, except as otherwise provided in Section 13 of this Lease or (v) the transfer of title to the Equipment by the Vendor pursuant to any provision of the Security Document. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the delivery of the Equipment or the full payment and performance of all obligations under this Lease and the Hulk Purchase Agreement or the expiration or termination of the term of this Lease and/or the Hulk Purchase Agreement. Nothing in this Section 8 shall constitute a guaranty by the Lessee of the Conditional Sale

Indebtedness of the Lessor under the Security Document or a guaranty of the residual value of any Unit.

The Lessee agrees to prepare and deliver to the Lessor within a reasonable time prior to the required date of filing (or, to the extent permissible, file on behalf of the Lessor) any and all reports (other than income tax returns) to be filed by the Lessor with any Federal, state or other regulatory authority by reason of the ownership by the Lessor or the Vendor of the Units or the leasing thereof to the Lessee.

Section 9. Default. If, during the continuance of this Lease, one or more of the following events (each such event being herein sometimes called an Event of Default) shall occur:

A. default shall be made in the payment of any amount provided for in Sections 2, 6 or 12 hereof and such default shall continue for ten days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease, or any interest therein, or of the right to possession of the Units, or any thereof;

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein or in the Participation Agreement and such default shall continue for 30 days after written notice from the Lessor or the Vendor to the Lessee specifying the default and demanding that the same be remedied;

D. a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may hereafter be amended, shall be filed by or against the Lessee and, unless such petition shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under the Security Document and this Lease shall not have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees appointed in such proceedings (whether or not subject to ratification) in such manner that such obligations shall have the same status as obligations incurred by such trustee or trustees, within 30 days after such appointment, if any,

or 60 days after such petition shall have been filed, whichever shall be earlier;

E. any proceedings shall be commenced by or against the Lessee for any relief which includes, or might result in, any modification of the obligations of the Lessee under this Lease, the Participation Agreement or the Consent under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustments of the obligations of the Lessee hereunder, under the Participation Agreement or under the Consent), and, unless such proceedings shall have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue), all the obligations of the Lessee under this Lease, under the Participation Agreement or under the Consent, as the case may be, shall not have been and shall not continue to have been duly assumed in writing, pursuant to a court order or decree, by a trustee or trustees or receiver or receivers appointed (whether or not subject to ratification) for the Lessee or for the property of the Lessee in connection with any such proceedings in such manner that such obligations shall have the same status as obligations incurred by such a trustee or trustees or receiver or receivers, within 30 days after such appointment, if any, or 60 days after such proceedings shall have been commenced, whichever shall be earlier;

then, in any such case, the Lessor, at its option, may:

(a) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all rights of the Lessee to the use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as herein provided; and thereupon the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess, sell, operate, lease

to others and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Units for any purposes whatever and without any duty to account to the Lessee for such action or inaction or for any proceeds arising therefrom; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify:

(x) a sum, with respect to each Unit, equal to the excess of the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over the then present value of the rental which the Lessor reasonably estimates to be obtainable for the Unit during such period, such present value to be computed in each case on the basis of a 1.433% per annum discount, compounded semi-annually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated; or (y) an amount equal to the excess, if any, of the Casualty Value as of the rental payment date on or next preceding the date of termination over the amount the Lessor reasonably estimates to be the sales value of such Unit at such time; provided, however, that in the event the Lessor shall have sold any Unit, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (y) of this part (b) with respect to such Unit, may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value for such Unit, as of the rental payment date on or next preceding the date of termination over the net proceeds of such sale.

In addition, the Lessee shall be liable, except as otherwise provided above, for any and all unpaid amounts due hereunder before, during or after the exercise of any of the foregoing

remedies and for all reasonable attorneys' fees and other costs and expenses incurred by reason of the occurrence of any Event of Default or the exercise of the Lessor's remedies with respect thereto, including all costs and expenses incurred in connection with the return of any Unit.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is not, at the time in question, prohibited by law. The Lessee hereby waives any and all existing or future claims to any offset against the rental payments due hereunder and agrees to make rental payments regardless of any offset or claim which may be asserted by the Lessee or on its behalf.

The failure of the Lessor to exercise the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

Section 10. Return of Units upon Default. If this Lease shall terminate pursuant to Section 9 hereof, the Lessee shall forthwith deliver possession of the Units to the Lessor. Each Unit so delivered shall be in the same operating order, repair and condition as when originally delivered to the Lessee, reasonable wear and tear excepted. For the purpose of delivering possession of any Unit or Units to the Lessor as above required, the Lessee shall at its own cost, expense and risk:

(a) forthwith and in the usual manner (including, but not by way of limitation, giving prompt telegraphic and written notice to the Association of American Railroads and all railroads to which any Unit or Units have been interchanged to return the Unit or Units so interchanged) place such Units upon such storage tracks of the Lessee as the Lessor reasonably may designate;

(b) permit the Lessor to store such Units on such tracks at the risk of the Lessee for a period not exceeding 270 days without charge for insurance, rent or storage until such Units have been sold, leased or otherwise disposed of by the Lessor; and

(c) transport the same to any place on the lines of railroad operated by it or any of its affiliates or to any connecting carrier for shipment, all as directed by the Lessor.

Each unit returned to the Lessor pursuant to this Section 10 shall comply with the requirements set forth in the penultimate sentence of the first paragraph of Section 13 hereof. The assembling, delivery, storage and transporting of the Units as hereinbefore provided shall be at the expense and risk of the Lessee and are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units. During any storage period, the Lessee will, at its own cost and expense, maintain and keep the Equipment in good order and repair and will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same.

All amounts earned in respect of the Units after the date of termination of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after such termination, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which the greater of (i) the daily Fair Rental Value (determined in the manner provided in Section 12 hereof) for such Unit, or (ii) an amount equal to 0.029925% of the Purchase Price of such Unit, exceeds the actual earnings received by the Lessor on such Unit for each such day plus the amount of any interest payable by the Lessor for any day during such period which is due under the Security Document because of the Lessor's failure to pay principal or interest thereunder on the due date thereof.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 10, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney-in-fact of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessee from whomsoever shall be in possession of such Unit at the time.

Section 11. Assignment; Possession and Use. This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. The Lessee hereby acknowledges notice of the assignment in respect of this Lease set forth in the Assignment of Lease and Agreement dated as of the date hereof, between the Lessor and the Vendor (a copy of which has been delivered to the Lessee), and agrees to make payments to the Vendor as provided therein. The rights of the Lessor hereunder (including, but not limited to, the rights under Sections 5, 6, 8 and 9 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Vendor as assignee thereunder in the manner and to the extent therein provided. In the event that, pursuant to such assignment and the rights of the Vendor thereunder and under the Security Document, the Vendor shall at any time cause this Lease to be terminated, the Lessee agrees that following the payment in full by the Vendee of the entire unpaid Conditional Sale Indebtedness (as defined in the Security Document) together with interest thereon, the Vendee may enforce compliance by the Lessee with its covenants and agreements under this Lease.

So long as the Lessee shall not be in default under this Lease and no event of default exists under the Security Document, the Lessee shall be entitled to the possession and use of the Units in accordance with the terms of this Lease but, without the prior written consent of the Lessor and the Vendor, the Lessee shall not assign or transfer its leasehold interest under this Lease in the Units or any of them. The Lessee, at its own expense, will promptly pay or discharge or cause to be paid and duly discharged any and all sums claimed by any party which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or the Vendor after the date hereof or resulting from claims against the Lessor or the Vendor not related to the ownership of the Units), upon or with respect to any Unit or the interest of the Lessor, the Vendor or the Lessee therein, and will promptly discharge any such lien, charge, security interest or other encumbrance which arises. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units, except to the extent permitted by the provisions of the next paragraph hereof.

Subject to the terms of this Lease, the Lessee shall be entitled to the possession of the Units and to the use

thereof by it or any affiliate upon lines of railroad owned or operated by it or any such affiliate or upon the lines of railroad over which the Lessee or any such affiliate has trackage or other operating rights or over which railroad equipment of the Lessee or any such affiliate is regularly operated pursuant to contract, and also to permit the use of the Units upon connecting and other carriers in the usual interchange of traffic and equipment, but only upon and subject to all the terms and conditions of this Lease, including the last paragraph of this Section 11, and the Security Document. The Lessee may receive and retain compensation for such use from other railroads so using any of the Units.

Nothing in this Section 11 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Units or possession of the Units to any corporation incorporated under the laws of any state of the United States of America or the District of Columbia (which shall have duly assumed the obligations of the Lessee hereunder) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the railroad properties of the Lessee as an entirety or substantially as an entirety, provided that such assignee or transferee will not, upon the effectiveness of such merger, consolidation or acquisition, be in default under any provision of this Lease.

The Lessee agrees that during the term of this Lease, it will not assign any Unit to service involving the regular operation and maintenance thereof outside the United States of America.

Section 12. Renewal Option. Provided that this Lease has not been earlier terminated and the Lessee is not in default hereunder, the Lessee may elect, by written notice delivered to the Lessor not less than six months prior to the end of the then current term of this Lease to extend the term of this Lease in respect of all, but not less than all, the Units then covered by this Lease for (a) one additional one and one-half-year term commencing on the scheduled expiration of the original term at a semiannual rental equal to 60% of the semiannual rental for the original term; (b) one additional one-year period commencing on the scheduled expiration of the first extended term at a semiannual rental equal to 60% of the semiannual rental for the original term; and (c) for one or two additional one-year periods commencing on the scheduled expiration of the

immediately prior extended term at a semiannual rental equal to the "Fair Market Rental" of such Units as of the commencement of any such extended term. All such semiannual rental payments shall be made on April 20 and October 20 of each year of the applicable extended term. Fair Market Rental shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee (other than (i) a lessee currently in possession or (ii) a used equipment dealer) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such value and in all cases Units shall be appraised as if the Lessee had maintained the same in accordance with Section 6 hereof.

If, after 50 days from the giving of notice by the Lessee of the Lessee's election to extend the term of this Lease pursuant to clause (c) of the preceding paragraph, the Lessor and the Lessee are unable to agree upon a determination of the Fair Market Rental of the Units, such rental shall be determined in accordance with the foregoing definition by the following procedure: If either party to such determination shall have given written notice to the other requesting determination of such value by this appraisal procedure, the parties shall consult for the purpose of appointing a qualified independent appraiser by mutual agreement. If no such appraiser is so appointed within 20 days after such notice is given, each party shall appoint an independent appraiser within 25 days after such notice is given, and the two appraisers so appointed shall within 35 days after such notice is given appoint a third independent appraiser. If no such third appraiser is appointed within 35 days after such notice is given, either party may apply, to make such appointment, to the American Arbitration Association, and both parties shall be bound by any appointment so made. Any appraiser or appraisers appointed pursuant to the foregoing procedure shall be instructed to determine the Fair Market Rental of the Units subject to the proposed extended term within 60 days after his or their appointment. If the parties shall have appointed a single appraiser or if either party shall have failed to appoint an appraiser, the determination of Fair Market Rental of the single appraiser appointed shall be final. If three appraisers shall be appointed, the determination of the appraiser which differs most from the other two appraisers shall be excluded, the remaining two determinations shall be averaged and such latter average shall be final and binding upon the parties hereto as the Fair Market Rental. The appraisal proceedings shall be

conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association as in effect on the date hereof, except as modified hereby. The provision for this appraisal procedure shall be the exclusive means of determining Fair Market Rental and shall be in lieu of any judicial or other procedure for the determination thereof, and each party hereto hereby consents and agrees not to assert any judicial or other procedures. The expenses of the appraisal procedure shall be borne by the Lessee.

Section 13. Return of Units upon Expiration of Term. As soon as practicable on or after the expiration of the original or any extended term of this Lease with respect to any Unit but in any event not later than 90 days after such expiration, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Unit to the Lessor upon such storage tracks of the Lessee or any of its affiliates as the Lessor may designate or, in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Unit on such tracks for a period not exceeding three months and transport the same, at any time within such three-month period, to any connecting carrier for shipment, all as directed by the Lessor, the movement and storage of such Unit to be at the expense and risk of the Lessee. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser or lessee of any Unit, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. Each Unit returned to the Lessor pursuant to this Section 13 shall (i) be in the same operating order, repair and condition as when originally delivered to the Lessee, ordinary wear and tear excepted, (ii) meet the standards then in effect under the Interchange Rules of the Association of American Railroads, if applicable, and/or the applicable rules of any governmental agency or other organization with jurisdiction and (iii) have removed therefrom by the Lessee without cost or expense to the Lessor all additions, modifications and improvements which the Lessee owns pursuant to Section 8 hereof. The assembling, delivery, storage and transporting of the Units as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises,

the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Units.

All amounts earned in respect of the Units after the end of the term of this Lease shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Unit is not assembled, delivered and stored, as hereinabove provided, within 60 days after the end of the term of this Lease, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which the greater of (i) the daily Fair Rental Value (determined in the manner provided in Section 12 hereof) for such Unit, or (ii) an amount equal to 0.029495% of the Purchase Price of such Unit, exceeds the actual earnings received by the Lessor on such Unit for each such day.

Section 14. Severability. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction, shall be, as to such jurisdiction, ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 15. Recording; Expenses. The Lessee, at its own expense, will cause this Lease, the Security Document and any assignment hereof or thereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. The Lessee will undertake the filing, recording and depositing and refiling, re-recording and redepositing required of the Lessor under the Security Document and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, re-register, re-record or redeposit whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Vendor for the purpose of proper protection, to their satisfaction, of the Vendor's and the Lessor's respective interests in the Units, or for the purpose of carrying out the intention of this Lease or the assignment hereof to the Vendor, or the Security Document; and the Lessee will promptly furnish to the Vendor and the Lessor evidences of all such filing, registering, recording or depositing, and an opinion or opinions of counsel for

the Lessee with respect thereto satisfactory to the Vendor and the Lessor. This Lease and the Security Document shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any unit.

Section 16. Interest on Overdue Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of rentals and other obligations when due hereunder shall result in the obligation on the part of the Lessee promptly to pay also an amount equal to 10-3/8% per annum of the overdue rentals and other obligations for the period of time during which they are overdue or such lesser amount as may be legally enforceable.

Section 17. Notices. Any instruction or notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States mails, first-class postage prepaid, addressed as follows:

if to the Lessor, at

One Constitution Plaza,
Hartford, Connecticut 06115,

Attention of Corporate Trust Department,

with a copy to the Beneficiary and to GATX Leasing Corporation, One Embarcadero Center, San Francisco, California 94111, Attention of Contracts Administration,

if to the Lessee, at

908 West Broadway
Louisville, Kentucky 40201,

if to the Vendor, at

P. O. Box 2258,
Baltimore, Maryland 21203,

Attention of Corporate Trust Department,

or addressed to any such party at such other address as such party shall hereafter furnish to the other party in writing. Copies of each such notice shall be given to the Vendor as hereinabove provided.

Section 18. Effect and Modification of Lease.

Except for the Participation Agreement and the Indemnity Agreements dated as of the date hereof between the Lessee and the Beneficiary, this Lease exclusively and completely states the rights of the Lessor and the Lessee with respect to the leasing of the Units and supersedes all other agreements, oral or written, with respect thereto. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized officers of the Lessor and the Lessee.

Section 19. Execution. This Lease may be exe-

cuted in several counterparts, such counterparts together constituting but one and the same instrument, but the counterpart delivered to the Lessor shall be deemed to be the original counterpart. It shall not be necessary that any counterpart be signed by both parties so long as each party shall sign at least one counterpart. This Lease shall be valid, binding and effective at such time as the Vendor shall have received (or as to which the Vendor shall have received attested telegraphic communication confirming execution of) counterparts executed by the Lessor and the Lessee. Although this Lease is dated as of the date first set forth above for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

Section 20. Law Governing. The terms of this

Lease and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Kentucky; provided, however, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act.

Section 21. Immunities; No Recourse. It is

expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all the representations, warranties, undertakings and agreements herein made on the part of the Lessor are each and every one of them made and intended not as personal representations, warranties, undertakings and agreements by the Lessor in its individual capacity, or for the purpose or with the intention of binding the Lessor personally, but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Lease is executed and delivered by the Lessor solely

in the exercise of the powers expressly conferred upon it as trustee under the Trust Agreement; and except in the case of gross negligence or wilful misconduct, no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Lessor on account of any representation, warranty, undertaking or agreement herein of the Lessor, either express or implied, all such personal liability, if any, being expressly waived and released by the Lessee.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this instrument to be executed in their respective corporate names by duly authorized officers, and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

THE CONNECTICUT BANK AND TRUST
COMPANY, not in its individual
capacity but solely as Owner Trustee,

by

[Seal]

Authorized Officer

Attest:

Authorized Officer

LOUISVILLE AND NASHVILLE RAILROAD
COMPANY,


by

[Corporate Seal]



Assistant Vice President

Attest:



~~Assistant Secretary~~

ATTESTING OFFICER

STATE OF CONNECTICUT,)
) ss.:
COUNTY OF HARTFORD,)

On this day of 1978, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is an Authorized Officer of THE CONNECTICUT BANK AND TRUST COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires

COMMONWEALTH OF KENTUCKY,)
COUNTY OF JEFFERSON,)

On this 19th day of July 1978, before me personally appeared R. H. Stier, to me personally known, who, being by me duly sworn, says that he is Assistant Vice President of LOUISVILLE AND NASHVILLE RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that such instrument was this day signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

[Notarial Seal]

My Commission expires

NOTARY PUBLIC, STATE AT LARGE
My Commission Expires April 12, 1981

SCHEDULE A

<u>Quantity*</u>	<u>AAR Mechanical Designation</u>	<u>Description</u>	<u>L&N* Railroad Road Numbers (Inclusive)</u>	<u>Builder's Specification Number</u>
105	XL	50-Ton Box Cars	96489-96593	L&N 78-1
10	XM	50-Ton Box Cars	110242-110251	L&N 78-1
49	XL	70-Ton Box Cars	112368-112416	L&N 78-1
36	XM	70-Ton Box Cars	112841-112876	L&N 78-1
56	HT	70-Ton Open Top Hoppers	76394-76449	L&N 78-2
86	HT	80-Ton Open Top Hoppers	189558-189643	L&N 78-2
33	HT	100-Ton Open Top Hoppers	192057-192089	L&N 78-2
206	GB	70-Ton Gondola Cars	26745-26747 27327-27398 27554-27644 27748-27763 29020-29041 29200-29201	L&N 78-3
2	GBS	70-Ton Gondola Cars	26283-26284	L&N 78-3
1	GBSR	70-Ton Gondola Car	26259	L&N 78-3

<u>Quantity*</u>	<u>AAR Mechanical Designation</u>	<u>Description</u>	<u>L&N* Railroad Road Numbers (Inclusive)</u>	<u>Builder's Specification Number</u>
9	LG	70-Ton Gondola Cars	27399-27405 27764-27765	L&N 78-3
12	GBS	100-Ton Gondola Cars	27983-27994	L&N 78-3
20	GB	100-Ton Gondola Cars	27645-27664	L&N 78-3
80	LO	100-Ton Covered Hopper Cars	201615-201655 205158-205179 250500-250516	L&N 78-4
8	FMS	70-Ton Flat Cars	22295 23916-23922	L&N 78-8
4	FB	70-Ton Bulkhead Flat Cars	990602, 990910 991004, 991005	L&N 78-5
2	FB	100-Ton Bulkhead Flat Cars	990309, 990310	L&N 78-5
2	FB	100-Ton Bulkhead Flat Cars	990400, 990401	L&N 78-5
24	FM	50-Ton Flat Cars	21510 21553-21556 21748-21766	L&N 78-8
50	LO	70-Ton Covered Hopper Cars to Ballast Cars	45101-45150	L&N 78-6

<u>Quantity*</u>	<u>AAR Mechanical Designation</u>	<u>Description</u>	<u>L&N* Railroad Road Numbers (Inclusive)</u>	<u>Builder's Specification Number</u>
33	LP	50-Ton Pulpwood to Welded Rail Cars	42934-42966	L&N 78-7
<hr/> 828				

* Although this Schedule A sets forth the description of 828 Units, Lease No. 2, dated as of the date hereof, between The Connecticut Bank and Trust Company, as Trustee, Lessor, and Louisville and Nashville Railroad Company, Lessee, will cover only those Units, having an aggregate purchase price not exceeding \$7,000,000, which are delivered to said Lessor under Reconstruction and Conditional Sale Agreement No. 2, dated as of the date hereof, between Mercantile-Safe Deposit and Trust Company, as Agent, L&N Investment Corporation and said Lessor. Following completion of deliveries, this Schedule A will be amended to delete from the description those Units not covered.

SCHEDULE B

Casualty Value Percentages ScheduleTable 1

<u>Rental No.</u>	<u>Rental Payment Date</u>	<u>Percentage of Purchase Price for each Unit</u>
Interim	April 20, 1979	92.874
1	October 20, 1979	91.897
2	April 20, 1980	90.269
3	October 20, 1980	89.025
4	April 20, 1981	86.767
5	October 20, 1981	85.200
6	April 20, 1982	82.629
7	October 20, 1982	79.399
8	April 20, 1983	76.487
9	October 20, 1983	74.199
10	April 20, 1984	70.895
11	October 20, 1984	67.897
12	April 20, 1985	64.415
13	October 20, 1985	61.251
14	April 20, 1986	57.437
15	October 20, 1986	53.902
16	April 20, 1987	49.813
17	October 20, 1987	45.945
18	April 20, 1988	41.540
19	October 20, 1988	37.328
20	April 20, 1989, and thereafter	32.613

Table 2

The percentages set forth in Table 1 of this Schedule B have been computed without regard to recapture of the Investment Credit (as defined in the Indemnity Agreements dated as of the date hereof, between the Lessee and the Beneficiary). Consequently, the Casualty Value of any Unit suffering a Casualty Occurrence on or before the third, fifth or seventh anniversary of the date of delivery and acceptance of such Unit shall be increased by the applicable percentage of the Reconstruction Cost set forth below:

Anniversary of
Delivery and AcceptancePercentage of Reconstruction Cost

Third	19.231
Fifth	12.821
Seventh	6.411